

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CSX TRANSPORTATION, INC.,
individually and on behalf of NORFOLK
& PORTSMOUTH BELT LINE
RAILROAD COMPANY,

Plaintiff,

v.

Civil Action No. 2:18-cv-530-MSD-LRL

NORFOLK SOUTHERN RAILWAY
COMPANY, *et al.*,

Defendants.

**CSX TRANSPORTATION, INC.’S NOTICE OF REQUEST FOR EXPEDITED
CONSIDERATION OF EMERGENCY MOTION TO AMEND SCHEDULING
ORDER AND EXTEND ITS EXPERT WITNESS AND DISCOVERY DEADLINES**

NOW COMES Plaintiff CSX Transportation, Inc. (“CSXT”), by counsel, and requests the Court consider on an expedited basis CSXT’s Emergency Motion to Amend Scheduling Order and Extend Its Expert Witness and Discovery Deadlines. CSXT filed suit to recover for violations of federal antitrust and state law committed by the Defendants. Following the Court’s rulings on various motions to dismiss and the issuance of the Scheduling Order, discovery was initiated by most parties almost immediately, but was delayed significantly by the negotiations between the parties over the Protective Order, ESI Order, and additional ESI related issues, including search terms. In addition, discovery challenges have been compounded by the sheer size and scope of this case. CSXT, as the Plaintiff, bears the burden of proof and is required, pursuant to the current Rule 16(b) Scheduling Order (ECF No. 78) to provide its expert report on February 10, 2020—weeks before the close of fact discovery. However, Defendants have not yet provided the

requested information CSXT needs for its expert to review, formulate his opinions, and provide them in his Rule 26 report. That lack of information and documents also make it virtually impossible for CSXT to prepare for and take necessary depositions by its discovery cutoff of March 4, 2020.

The parties have met and conferred on several occasions in efforts to resolve the issues with the production of these documents, but have still not come to an agreement on an expert witness deadline extension. Expedited consideration for the Motion is warranted because CSXT's expert report is otherwise due February 10, 2020, and the parties are still unable to reach an agreement regarding the production of responsive documents needed for the report. And, CSXT cannot complete its necessary discovery, particularly its depositions, by the present cutoff. CSXT therefore proposes the following briefing schedule for its Motion:

- Defendants' Opposition Brief: January 27, 2020
- CSXT's Reply Brief: January 29, 2020
- Hearing or Telephonic Conference with the Court as soon as the Court is available thereafter.

WHEREFORE, CSXT, by counsel, respectfully requests the Court hear its Motion on an expedited basis.

Dated: January 23, 2020

Respectfully submitted,

CSX TRANSPORTATION, INC.

/s/ Robert W. McFarland

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I certify that on this 23rd day of January 2020, a true and correct copy of the foregoing was served on all counsel of record via Notice of Electronic Filing by filing with the Court's CM/ECF system.

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